

**#. SUBJECT: DENILQUIN LOCAL ENVIRONMENTAL PLAN 2013
(AMENDMENT NO 8)**

**FROM: JOHN HARVIE
Director Economic and Business Development**

In providing this advice to Council, I, Julie Rogers, have no interests to disclose in this report.

RECOMMENDATION:

DIVISION

In accordance with the requirements of the Local Government Act, it is necessary for Council to call a division when voting of any resolution that involves making a planning decision.

That Council:

1. In accordance with section 59(2) of the Environmental Planning and Assessment Act make the proposed Deniliquin Local Environmental Plan 2013 (Amendment 8); and
2. Upon signing of the proposed Deniliquin Local Environmental Plan 2013 (Amendment 8) by Council's delegate, that the Department of Planning and Environment be notified of Council's decision.

BACKGROUND:

At its meeting on 14 October 2016, Council resolved to:

- a Prepare a planning proposal to amend the Deniliquin Local Environmental Plan 2013 in accordance with section 55(1) of the Environmental Planning and Assessment Act 1979 to rezone Lots 2, 3 and 4 DP286006 Barham Road, Deniliquin from RU1 Primary Production to IN1 General Industrial.*
- b Forward the planning proposal to the Minister for Planning and Infrastructure in accordance with section 56(1) of the Environmental Planning and Assessment Act 1979.*
- c Request that the local planning making functions in relation to this planning proposal be delegated to Council.*

Council has now complied with the conditions of the gateway determination (Attachment 1) and the instrument can be made. Attachment 2 is a copy of the amending instrument and mapping and the Parliamentary Counsel's opinion stating that the instrument can be made.

Figure 1 shows the location of the subject site.



Figure 1 Location of subject site

ISSUE/DISCUSSION:

Council advised the Department of Planning and Environment (the Department) of Council's decision to prepare the planning proposal and requested a gateway determination on 31 October 2016. Following the Department's consideration of the planning proposal and discussions with Council and the proponent, Council resolved at its meeting on 16 March 2017 to delete Lot 2 DP286006 Barham Road from the planning proposal. Attachment 3 is the amended planning proposal.

A condition of the gateway determination required Council to prepare a preliminary review of the subject land and initial site contamination investigation report to satisfy requirements of State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) and place this information on exhibition. This preliminary review was completed and placed on exhibition with the planning proposal. Attachment 4 is the preliminary review.



The planning proposal was exhibited in accordance with section 57 of the Environmental Planning and Assessment Act (the Act) for a period of 28 days and one submission was received (Attachment 5).

The submission states that they do not object to the rezoning of the land but are concerned about the safety of children who use the school bus that collects children along Barham Road along with the capability of Barham Road to handle future increases in traffic. The future use of the subject site coupled with proposed ethanol plant (to be located on the corner of Barham Road and Leetham Road) could result in an increase in heavy vehicles (eg B doubles and road trains) using Barham Road.

Barham Road is a regional road that serves as an arterial road between towns and is an approved B double and road train route. The types of industrial uses that could be established on the site are consistent with the function of the road. Ultimately the issue of increased vehicular traffic and concerns around child and pedestrian safety in relation to the school bus route would be considered if a development application was lodged for the use of the subject site. However where this could be a concern, Council would consider matters such as access/road intersection treatment and the need for a bus lay-by.

As required by the gateway determination, Council consulted with the Roads and Maritime Service (RMS) and the Office of Environment Heritage. Attachment 6 is the response from the RMS. RMS have stated that they have no objection to the proposed rezoning of the site.

Council has now complied with the conditions of the gateway determination and the instrument can be made.

As Council has been given delegation to make the instrument, Council is required to resolve in accordance with section 59(2) or (3) of the Act on whether it wishes to make the instrument. Section 59(2) and (3) states:

- (2) The Minister may, following completion of community consultation:*
 - (a) make a local environmental plan (with or without variation of the proposals submitted by the relevant planning authority) in the terms the Minister considers appropriate, or*
 - (b) decide not to make the proposed local environmental plan.*
- (3) The Minister may defer the inclusion of a matter in a proposed local environmental plan.*

It is recommended that the instrument be made. Should Council resolve to make the instrument, it will be signed by Council under delegation and then forwarded to the Department requesting that the instrument be notified on the NSW legislation website. The instrument will commence on the day it is notified.

POLICY AND STRATEGY IMPLICATIONS:



Nil.

FINANCIAL AND RESOURCE IMPLICATIONS:

The proponent meets the cost of preparing the planning proposal.

RISK IMPLICATIONS:

There is minimal risk associated with this matter as Council must prepare the rezoning in accordance with the Act.

CONSULTATION

Refer to comments above about consultation.

ATTACHMENTS:

- Attachment 1 – Gateway Determination (5 pages)
 - Attachment 2 – Amending instrument, maps and Parliamentary Counsel's opinion (8 pages)
 - Attachment 3 – Amended planning proposal (13 pages)
 - Attachment 4 – Initial Site Evaluation (PP8) (16 pages)
 - Attachment 5 - Submission (2 pages)
 - Attachment 6 – RMS submission (1 page)
-





Mr Barry Barlow
Interim General Manager
Edward River Council
PO Box 270
DENILIKUIN NSW 2710

16/14308

Attention: Ms Julie Rogers, Manager Environmental Services

Dear Mr Barlow

**Planning proposal (PP_2016_ERIVE_002_00) to amend Deniliquin Local
Environmental Plan 2013, Barham Road, Deniliquin**

I am writing in response to your Council's email received 1 November 2016 and subsequent information provided via email on 28 March 2017 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to rezone Lots 3 & 4 DP 286006 at Barham Road, Deniliquin from zone RU1 Primary Production to zone IN1 General Industrial with no minimum lot size for the subject land.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.
(Attachment 1)

I am satisfied that the planning proposal's inconsistencies with section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance and no further work is required. In relation to State Environmental Planning Policy 55 – Remediation of Land, a preliminary site contamination investigation report is to be prepared and placed on exhibition with the planning proposal. Please refer to Condition No.1 of the Gateway determination.

The Minister delegated plan making powers to Councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan. **(Attachment 2)**

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.council@pco.nsw.gov.au) 10 weeks prior to the projected publication date.

All related files for LEP Amendment, including PDF Maps, Map Cover Sheet, Planning Proposal document and GIS Data, if available, must be submitted to the Department via the Planning Portal Website at <https://www.planningportal.nsw.gov.au/planning-tools/online->

[submission-planning-data](#). To submit the data, Council is required to create an account and log in using these details.

A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

In accordance with "A guide for the preparation of local environmental plans" attachment 5 – Delegated plan making reporting template (**Attachment 3**) is enclosed for Council's information. Table 2 of the attachment is to be completed and included in Council's section 59 submission and forwarded to westernregion@planning.nsw.gov.au when requesting the planning proposal be finalised.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Environmental Planning & Assessment Act, 1979 if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Megan Jones of the Departments Western Region office to assist you. Ms Jones can be contacted on (02) 6841 2180.

Yours sincerely



Katrine O'Flaherty
Director Regions, Western
Planning Services

11/04/2017

Encl:

- Attachment 1 – Gateway determination
- Attachment 2 – Written Authorisation to Exercise Delegation
- Attachment 3 – Delegated Plan Making Reporting template



Gateway Determination

Planning proposal (Department Ref: PP_2016_ERIVE_002_00): to rezone land from RU1 Primary Production to IN1 General Industrial with no minimum lot size at Lot 3 & 4 DP 286006, Barham Road, Deniliquin.

I, the Director Regions, Western at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the Deniliquin Local Environmental Plan (LEP) 2013 to rezone land from RU1 Primary Production to IN1 General Industrial and remove minimum lot size at Lots 3 & 4 DP 286006, Barham Road, Deniliquin should proceed subject to the following conditions:

1. A preliminary review of the subject land and initial site contamination investigation report are to be prepared to satisfy requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Results of the preliminary review and report are to be placed on public exhibition with the planning proposal.
2. Prior to community consultation the planning proposal documentation is to be amended to only refer to Lots 3 and 4 DP 286006, Barham Road, Deniliquin.
3. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the *Environmental Planning and Assessment Act, 1979*:
 - Road and Maritime Services (RMS)
 - Office of Environment and Heritage (OEH)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the *Environmental Planning and Assessment Act, 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. Prior to submission of the planning proposal under Section 59 of the *Environmental Planning and Assessment Act, 1979*, the LEP maps must be prepared and be compliant

with the Department's 'Standard Technical Requirements for Spatial Datasets and maps' 2015.

7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

A handwritten signature in black ink, appearing to read 'K. O'Flaherty', with a long horizontal flourish extending to the right.

Dated

11th

day of

April

2017.

Katrine O'Flaherty
Director Regions, Western
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Edward River Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_ERIVE_002_00	Planning proposal to rezone land from RU1 Primary Production to IN1 General Industrial with no minimum lot size at Lots 3 & 4 DP 286006, Barham Road, Deniliquin.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 11th April 2017

Katrine O'Flaherty
Director Regions, Western
Department of Planning and Environment

Delegate of the Minister for Planning

Deniliquin Local Environmental Plan 2013 (Amendment No 8)

Edward River Council
PO Box 270, Civic Place
Deniliquin, NSW, 2710

Map Cover Sheet

The following map sheet is revoked:

Map Sheet	Map Identification Number
Land Zoning Map	
LZN_002	2500_COM_LZN_002_020_20131210
LZN_003	2500_COM_LZN_003_020_20131210
Lot Size Map	
LSZ_002	2500_COM_LSZ_002_020_20131210
LSZ_003	2500_COM_LSZ_003_020_20131210

The following map sheet is adopted:

Map Sheet	Map Identification Number
Land Zoning Map	
LZN_002	2500_COM_LZN_002_020_20171009
LZN_003	2500_COM_LZN_003_020_20171009
Lot Size Map	
LSZ_002	2500_COM_LSZ_002_020_20171009
LSZ_003	2500_COM_LSZ_003_020_20171009

Certified

[Name of Council Delegate]
as delegate for the Minister for Planning

[Date]



**Deniliquin Local
Environmental
Plan 2013**

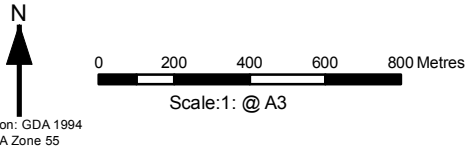
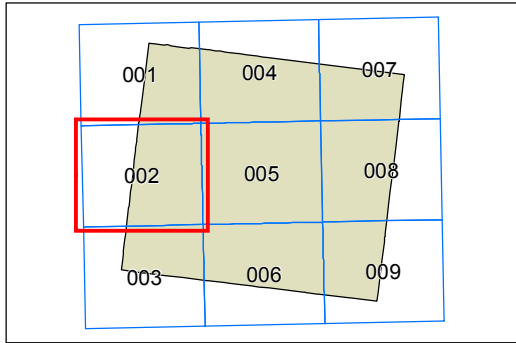
Lot Size Map - Sheet LSZ_002

Minimum Lot Size (sq m)

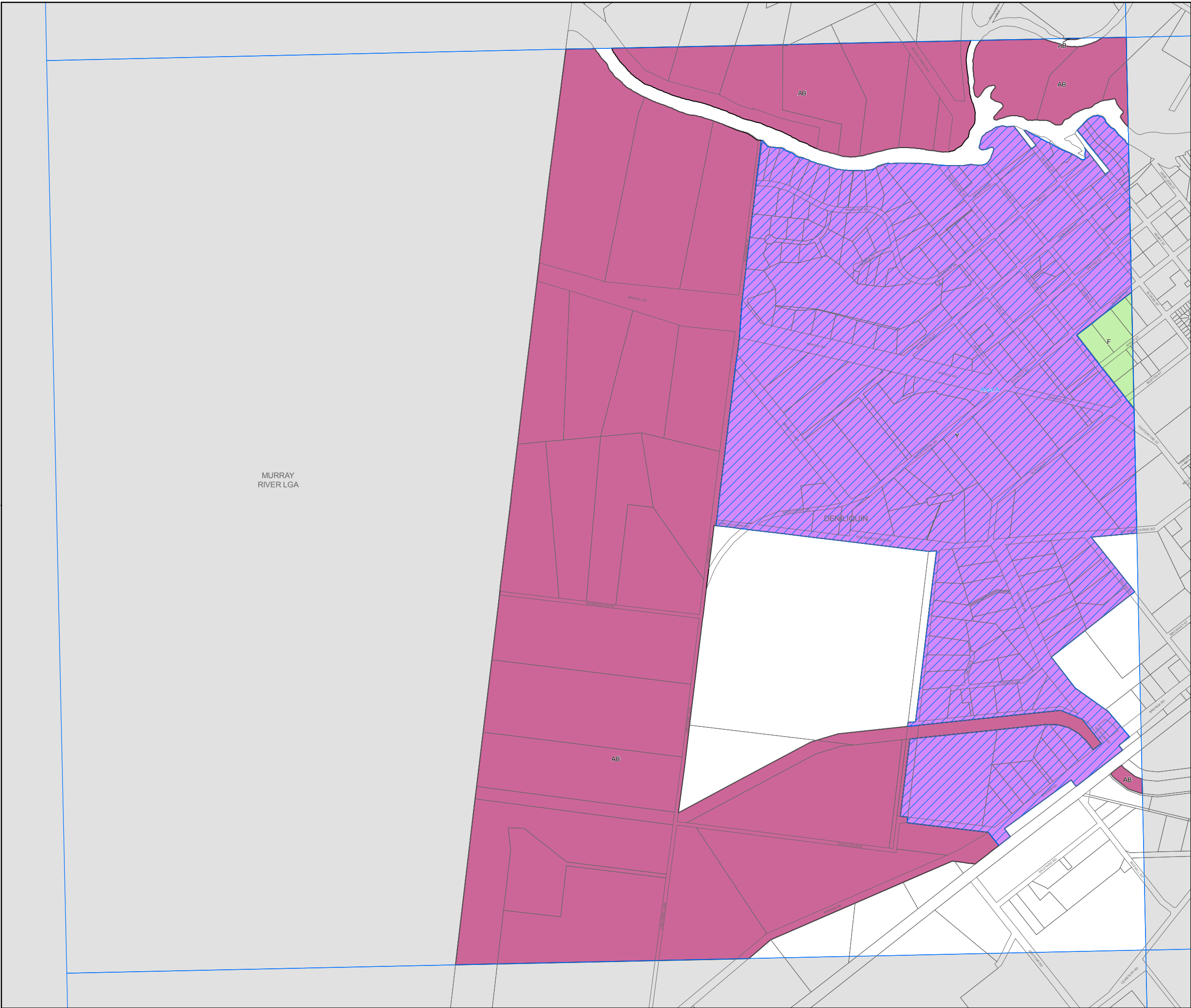
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- AB** 40 ha
- Refer to Clause 4.1 (4A)

Cadastral

Cadastral 05/10/2017 © Land and Property Information (LPI)



Map identification number: 2500_COM_LSZ_002_020_20171009





**Deniliquin Local
Environmental
Plan 2013**

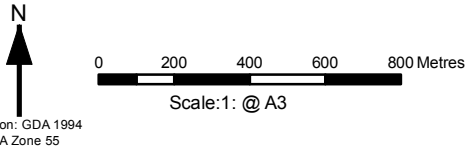
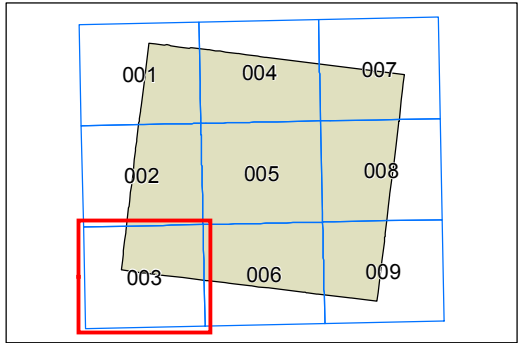
Lot Size Map - Sheet LSZ_003

Minimum Lot Size (sq m)

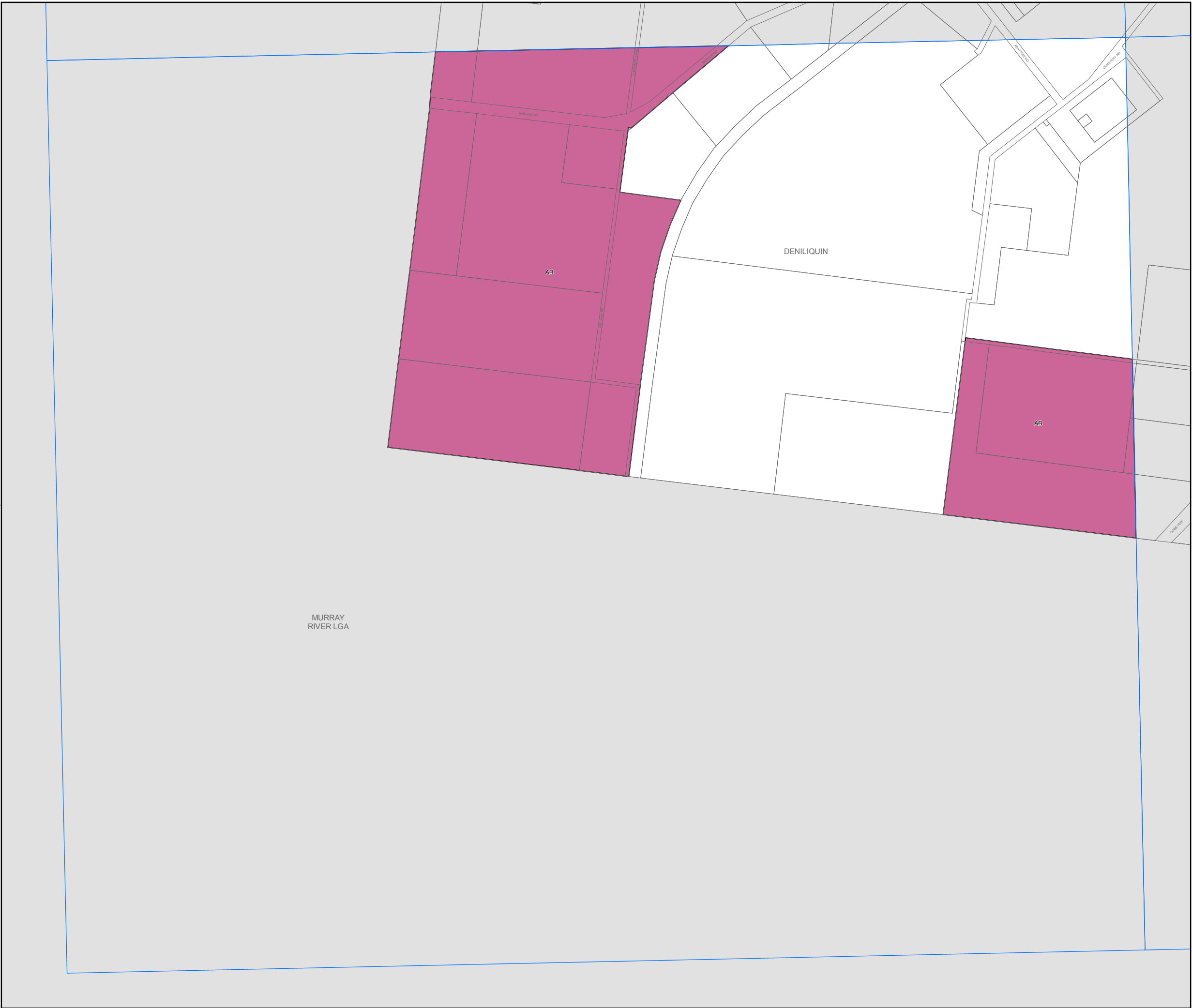
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- Y** 1 ha
- AB** 40 ha
- Refer to Clause 4.1 (4A)

Cadastre

Cadastre 05/10/2017 © Land and Property Information (LPI)



Projection: GDA 1994
MGA Zone 55
Map identification number: 2500_COM_LSZ_003_020_20171009



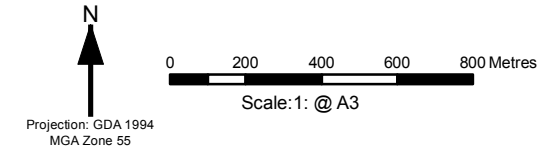
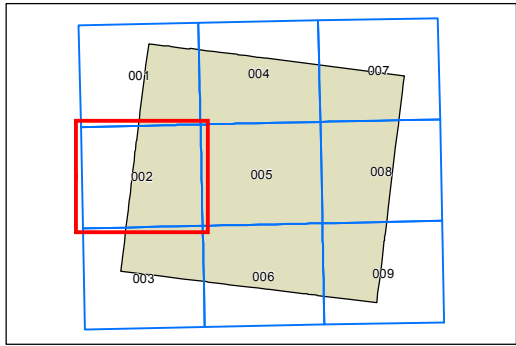


**Deniliquin Local
Environmental
Plan 2013**

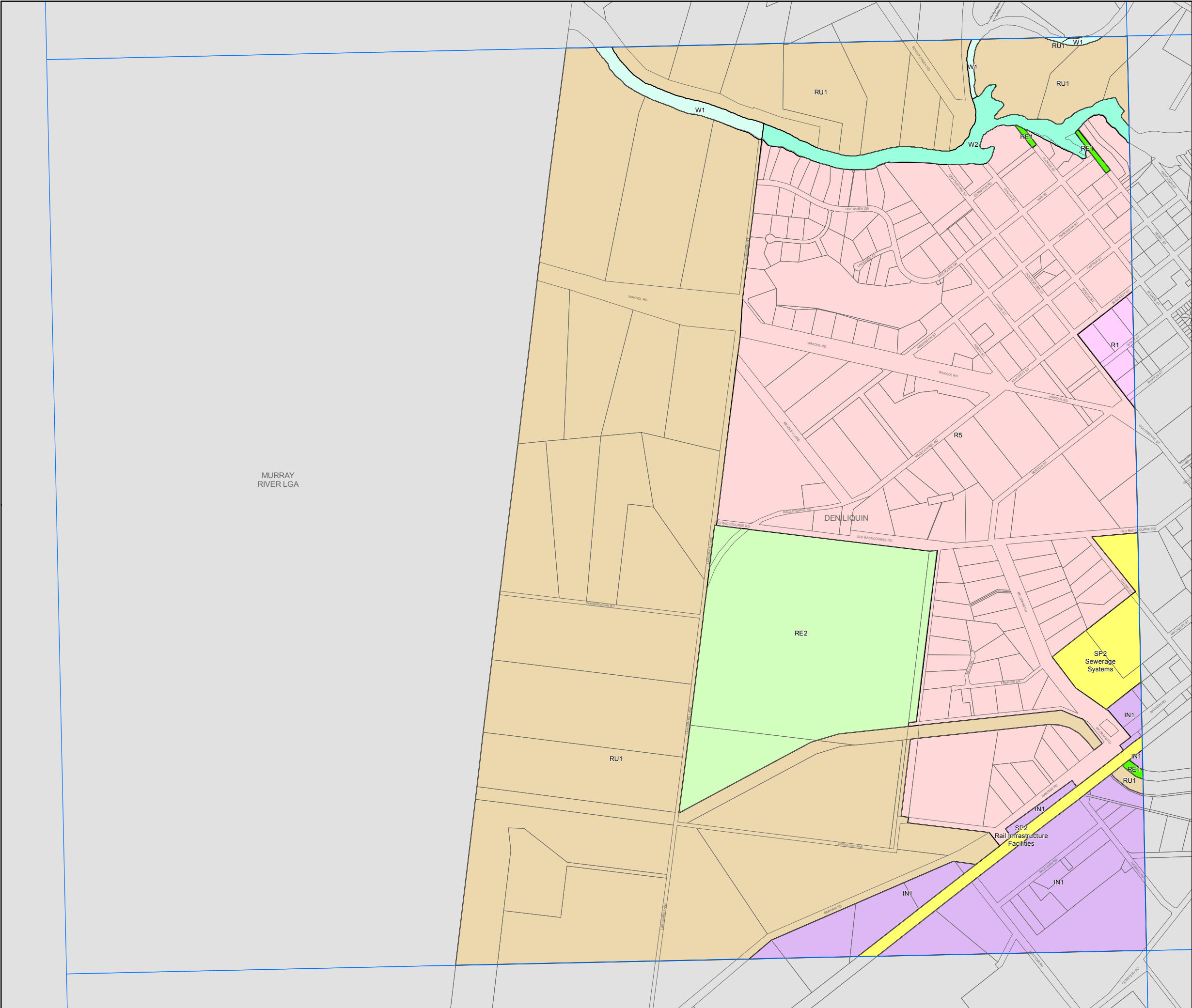
Land Zoning Map - Sheet LZN_002

- Zone**
- B2** Local Centre
 - B6** Enterprise Corridor
 - E1** National Parks and Nature Reserves
 - E3** Environmental Management
 - IN1** General Industrial
 - R1** General Residential
 - R5** Large Lot Residential
 - RE1** Public Recreation
 - RE2** Private Recreation
 - RU1** Primary Production
 - SP2** Infrastructure
 - W1** Natural Waterways
 - W2** Recreational Waterways
 - DM** Deferred Matter

Cadastral
Cadastral 05/10/2017 © Land and Property Information (LPI)



Map identification number: 2500_COM_LZN_002_020_20171009



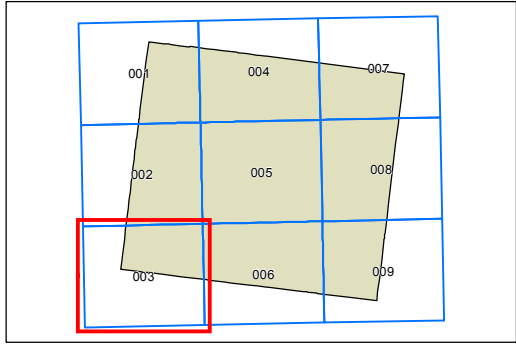


**Deniliquin Local
Environmental
Plan 2013**

Land Zoning Map - Sheet LZN_003

- Zone**
- B2** Local Centre
 - B6** Enterprise Corridor
 - E1** National Parks and Nature Reserves
 - E3** Environmental Management
 - IN1** General Industrial
 - R1** General Residential
 - R5** Large Lot Residential
 - RE1** Public Recreation
 - RE2** Private Recreation
 - RU1** Primary Production
 - SP2** Infrastructure
 - W1** Natural Waterways
 - W2** Recreational Waterways
 - DM** Deferred Matter

Cadastral
Cadastral 05/10/2017 © Land and Property Information (LPI)

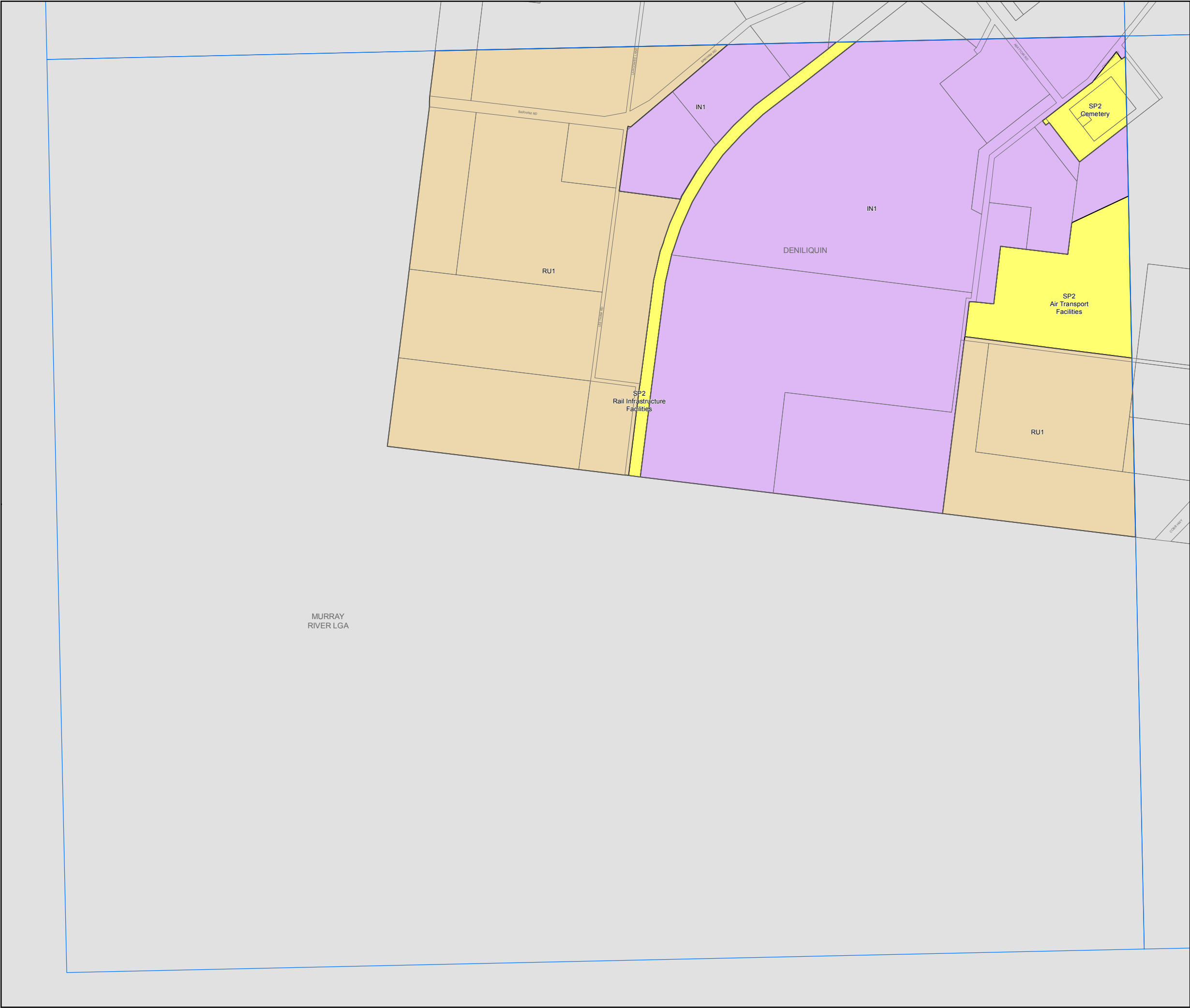


0 200 400 600 800 Metres

Scale: 1: @ A3

Projection: GDA 1994
MGA Zone 55

Map identification number: 2500_COM_LZN_003_020_20171009





Edward
River
COUNCIL

Amended Planning Proposal No 8

This planning proposal has been prepared to rezone Lots 3 and 4 DP286006 Barham Road from RU1 Primary Production to IN1 General Industrial.

INTRODUCTION

Council has received a request from the owner of the land to rezone Lots 3 and 4 DP286006 Barham Road from RU1 Primary Production to IN1 General Industrial under the Deniliquin Local Environmental Plan 2013.

SUBJECT SITE

The subject site is located on Barham Road and Leetham Road and is held in three titles. The subject site also has frontage to the railway line. The site has a total area of 39.24ha with each lot having the following land area:

Lot	Land Area
Lot 3 DP286006	19.49ha
Lot 4 DP286006	19.75ha

The site is vacant and used for agriculture ie grazing of livestock. There is no significant vegetation on the site. The site is within the vicinity of the recently approved ethanol plant and Council's effluent dam. Figure 1 shows the location of the existing site.

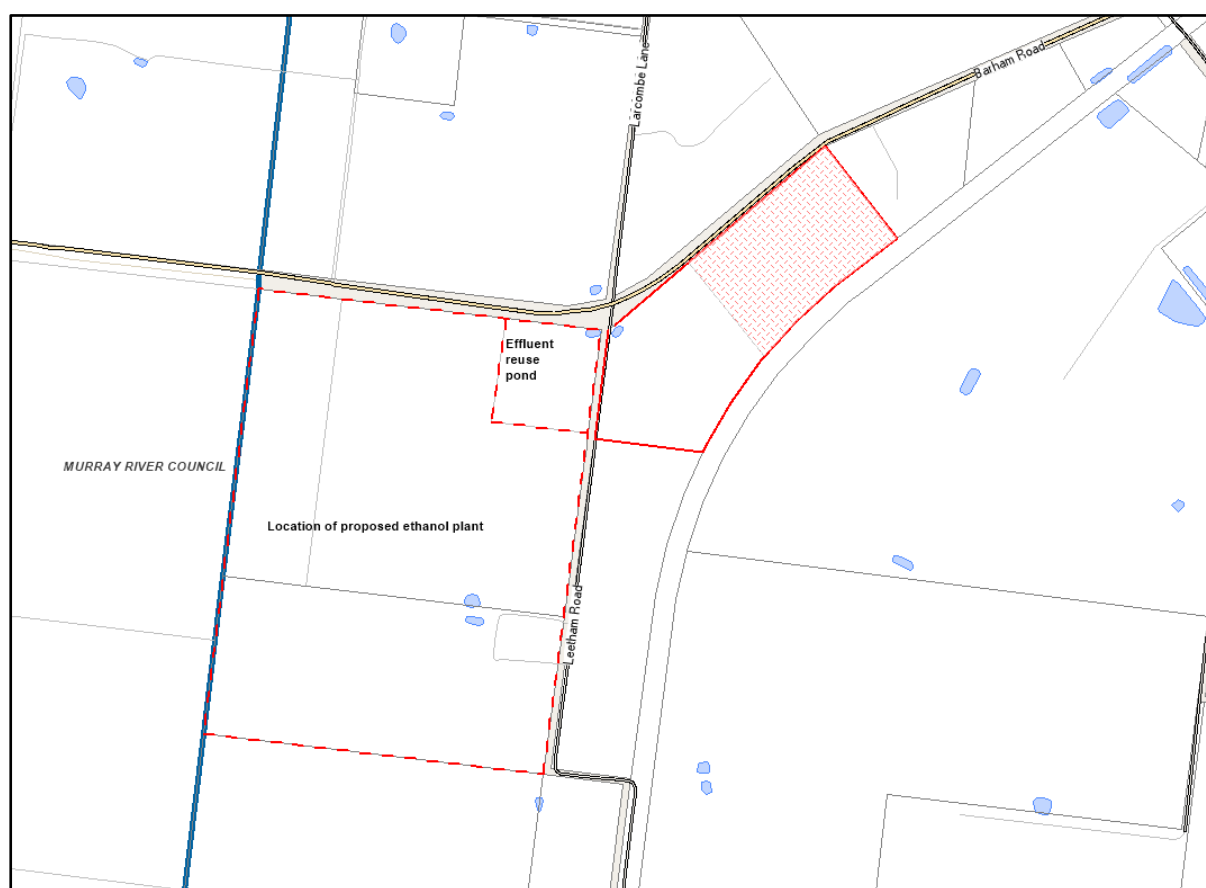


Figure 1 Location of Subject Site

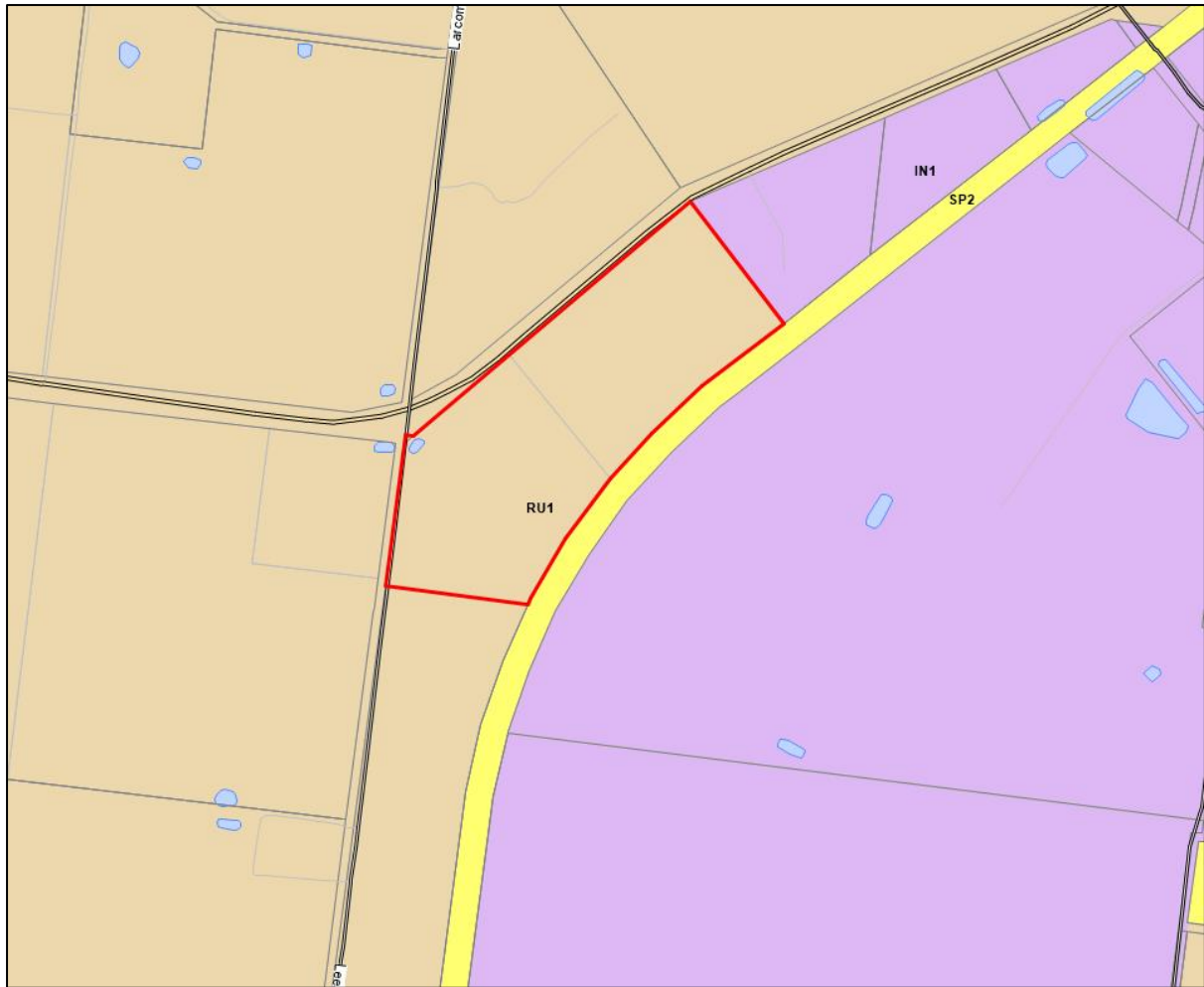


Figure 2 Subject site and surround zones

The site adjoins land zoned IN1 General Industrial, RU1 Primary Production and SP2 Infrastructure (being Barham Road and the railway line). Figure 2 shows the location of the subject site and the adjoining zones.

The land is located adjacent to the existing IN1 General Industrial land and would provide an extension to this zone. The land is in a suitable location as two lots have frontage to Barham Road which is a B-double and road train route. The land can be serviced with water and sewer and is within the vicinity of land which has recently obtained development consent for the establishment of an ethanol plant. The subject site is surrounded by a mix of agriculture, dwellings, industrial uses and infrastructure (Barham Road and the railway line). Figure 3 is an aerial view of the site and surrounding land.

The rezoning would result in an increase of industrial land availability. Whilst Council has sufficient land zoned for industrial uses, Council does not have large lots available where there is direct access to B double and road train routes and services are available within the vicinity

of the land. Existing land supply is not market ready due to a lack of services, inadequate road access, size of lots and land bankers.



Figure 3 Aerial view of subject site and surrounding land uses

PART 1 OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to rezone Lots 3 and 4 DP286006 Barham Road from RU1 Primary Production to IN1 General Industrial under the Deniliquin Local Environmental Plan 2013 (LEP2013).

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by amending Land Zoning Map – Sheet LZN_003 to show the subject site (identified in Figure 1) as being zoned IN1 General Industrial. Lot Size Map LSZ_003 would be amended by removing the minimum lot size provisions that currently apply to the site. There are no minimum lot size provisions under LEP 2013 for the IN1 General Industrial zone.

PART 3 JUSTIFICATION

Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. The planning proposal is the result of a request from a land owner. Council is considering a local strategy for the newly formed Edward River Council prior to the consolidation of the 3 LEPs applying to the former Deniliquin and Conargo Shire Councils.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the most appropriate means of achieving the objectives and intended outcomes as it will allow for the rezoning and the amendment of the minimum lot size provisions applying to this site. The location of the site on a regional road with approved heavy vehicle use means that the land is ideally located for the extension of the industrial zone in this location.

Council does have land that is currently zoned industrial but due to its location remains vacant. Council believes the reason for this is its location on roads which are either not sealed or adequately formed for access by heavy vehicles and the lack of other infrastructure ie water and sewer. The value of the land versus the cost of servicing the land means that it is not viable to develop this land currently zoned industrial.

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

There is no regional or sub-regional strategy for the Edward River Local Government area.

Is the planning proposal consistent with a council local strategy or other local strategic plan?

Edward River Council does not have a local strategy or other local strategic plan that applies to the former Deniliquin Local Government Area. Council is considering a local strategy for the newly formed Edward River Council prior to the consolidation of the 3 LEPs applying to the former Deniliquin and Conargo Shire Councils.

Is the planning proposal consistent with the applicable State Environmental Planning Policies?

The planning proposal is consistent with SEPPs. SEPPs have been considered in Appendix 1.

Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

Section 117 Directions have been considered in Appendix 2. Where the planning proposal is inconsistent with a Direction the inconsistency is of minor significance.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is considered that no adverse environmental impacts are likely to arise as a result of the planning proposal.

Has the planning proposal adequately addressed any social and economic effects?

The planning proposal would not result in any adverse social and economic impacts. Increasing the availability of industrial land with access to a regional road that permits heavy vehicle movements will be an economic opportunity for industrial development in Deniliquin.

Is there adequate public infrastructure for the planning proposal?

Two of the lots have frontage Barham Road which is a regional road and permits heavy vehicles. There is no water or sewer servicing the site but the services could be extended to the site.

Clause 6.7 of LEP 2013 does not allow Council to grant consent for development unless it is satisfied that certain services that are essential for the development are available or adequate arrangements have been made to make them available. This clause would allow Council to address infrastructure needs at the development application stage.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

At this stage a gateway determination has not been issued. Council will consult with relevant State and Commonwealth authorities if required to do so when the gateway determination has been issued.

PART 4 MAPPING

The following LEP 2013 would be required to be amended:

- Land Zoning Map – Sheet LZN_003 to show the subject site (identified in Figure 1) as being zoned IN1General Industrial.
- Lot Size Map LSZ_003 would be amended by removing the minimum lot size provisions that currently apply to the site. There are no minimum lot size provisions under LEP 2013 for the IN1 General Industrial zone.

PART 5 COMMUNITY CONSULTATION

In accordance with section 57 of the Environmental Planning and Assessment Act, it is proposed to exhibit the planning proposal for 14 days in the local media and on Council's website. Adjoining land owners would be notified.

PART 6 PROJECT TIMELINE

Given the nature of the amendment, Council proposes to complete the amendment in 6 months.

APPENDIX 1
STATE ENVIRONMENTAL PLANNING POLICIES

SEPPs	Consistent	Comments
SEPP 21 Caravan Parks	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 30 Intensive Agriculture	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 33 Hazardous and Offensive Development	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 36 Manufactured Home Estates	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 50 Canal Estate Development	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 52 Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 55 Remediation of Land	Yes	The land is currently vacant and has been used for grazing. The proposed rezoning is not proposing a more 'sensitive' land use eg residential. Therefore it is considered that no further consideration of this SEPP is required.
SEPP 62 Sustainable Aquaculture	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 64 Advertising and Signage	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP 65 Design Quality of Residential Flat Development	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Affordable Rental Housing) 2009	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Infrastructure) 2007	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Integration and Repeals) 2016	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	The planning proposal does not include any provisions relevant to this SEPP.

SEPP (Miscellaneous Consent Provisions) 2007	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (Rural Lands) 2008	N/A	The planning proposal does not include any provisions relevant to this SEPP.
SEPP (State and Regional Development) 2011	N/A	The planning proposal does not include any provisions relevant to this SEPP.

APPENDIX 2
SECTION 117 DIRECTIONS

Section 117 Direction	Consistent	Comments
1.1 Business and Industrial Zones	Yes	<p>This direction applies to this planning proposal as it is proposed to zone the land IN1 General Industrial and it is considered that it is consistent with this direction.</p> <p>The land is located adjacent to the existing IN1 General Industrial land and would provide an extension to this zone. The land is in a suitable location as it has frontage to Barham Road which is a B-double and road train route. The land can be serviced with water and sewer and is within the vicinity of land which has recently obtained development consent for the establishment of an ethanol plant.</p> <p>The rezoning would result in an increase of industrial land availability. Whilst Council has sufficient land available for industrial uses, Council does not have large lots available where there is direct access to B double and road train routes and services are available within the vicinity of the land. Existing land supply is not market ready due to a lack of services, adequate road access, adequate land area and land bankers.</p>
1.2 Rural Zones	No	<p>This direction applies to this planning proposal as it is proposed to rezone the land from rural to industrial. The planning proposal is inconsistent with this direction as Council does not have a strategy to support the planning proposal. However, the inconsistency is of a minor nature given that the rezoning involves 39.24ha of rural land which in the context of rural land within the Edward River Council area is not significant. The rezoning of this land will increase the availability of industrial land in a desirable location.</p>
1.3 Mining, Petroleum Production and Extractive Industries	Yes	<p>The planning proposal will not prohibit the mining of coal or other minerals, production of petroleum or winning or obtaining of extractive materials or restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>
1.4 Oyster Aquaculture	N/A	

1.5 Rural Lands	No	<p>This direction applies to this planning proposal but is inconsistent with this direction as it proposes to rezone RU1 land to IN1. Clause 4(a) of the direction requires a planning proposal to be consistent with the Rural Planning Principles listed in SEPP (Rural Lands) 2008. The inconsistency with this direction is of minor significance when considering the following Rural Planning Principles:</p> <p><i>a The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i> – There is a significant amount of land zoned for agricultural pursuits within the LGA. The reduction in land zoned for rural pursuits will not significantly impact opportunities for economic activities in rural areas.</p> <p><i>b Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i> – Council is aware of the importance of rural lands to the economy and the rezoning of this land will not result in a significant reduction in rural land available for rural pursuits.</p> <p><i>c Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development - Council is aware of the importance of rural lands to the economy and the rezoning of this land will not result in a significant reduction in rural land available for rural pursuits.</i></p> <p><i>d In planning for rural lands, to balance the social, economic and environmental interests of the community</i> – The rezoning will not result in a significant loss of rural land for this local government area. However, the provision of industrial land within this location allows for a logical extension to the industrial area where there is direct access to a regional road with approval for heavy vehicle movements and within the vicinity of infrastructure.</p> <p><i>e The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i> – The subject site consists of three paddocks and no constraints have been identified for the land.</p>
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		<p>f <i>The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i> – Council has adequate land available for provide for a rural lifestyle, settlement and housing. The rezoning of this land will not significantly reduce these opportunities.</p> <p>g <i>The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i> – This planning proposal does not provide for rural housing.</p> <p>h <i>Ensuring consistency with applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i> – N/A</p>
2.1 Environment Protection Zones	n/a	-
2.2 Coastal Protection	n/a	-
2.3 Heritage Conservation	n/a	-
2.4 Recreation Vehicle Areas	n/a	-
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	n/a	-
3.1 Residential Zones	n/a	-
3.2 Caravan Parks and Manufactured Home Estates	n/a	-
3.3 Home Occupations	n/a	-
3.4 Integrating Land Use and Transport	No	<p>This direction applies to this planning proposal as it affects land to be zoned industrial. The planning proposal is inconsistent with this direction but the inconsistency is of minor significance. The local government area has a heavy reliance on private transport given its location and size. Whilst there is public transport available it is limited primarily to the Deniliquin township and the proposed rezoning will not generate significant activity that would warrant an extension of public transport to service this land.</p>
3.5 Development Near Licensed Aerodromes	Yes	<p>The planning proposal applies to land that is within the vicinity of a licensed aerodrome and there is an OLS that affects the site. There is no ANEF applying to the</p>

		site. The LEP 2013 contains provisions relating to development of land that will penetrate the OLS.
3.6 Shooting Ranges	n/a	-
4.1 Acid Sulfate Soils	n/a	-
4.2 Mine Subsidence and Unstable Land	n/a	-
4.3 Flood Prone Land	n/a	The subject site is located outside the flood planning area.
4.4 Planning for Bushfire Protection	n/a	The subject site is not bushfire prone.
5.1 Implementation of Regional Strategies	n/a	-
5.2 Sydney Drinking Water Catchment	n/a	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	n/a	-
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	n/a	-
5.8 Second Sydney Airport: Badgerys Creek	n/a	-
5.9 North West Rail Link Corridor Strategy	n/a	-
5.10 Implementation of Regional Plans	n/a	-
6.1 Approval and Referral Requirements	n/a	-
6.2 Reserving Land for Public Purposes	n/a	-
6.3 Site Specific Provisions	n/a	-
7.1 Metropolitan Planning	n/a	-
7.2 Implementation of Greater Macarthur Land Release Investigation	n/a	-



Edward
River
COUNCIL

Initial Site Evaluation (PP8)

This investigation relates to the planning proposal to rezone Lots 3 and 4 DP286006 Barham Road from RU1 Primary Production to IN1 General Industrial and to satisfy condition 1 of the Gateway Determination.

INTRODUCTION

Condition 1 of the gateway determination for the Planning Proposal for Barham Road requires a preliminary review of the subject land and initial site contamination investigation report to be prepared to satisfy the requirements of State Environmental Planning Policy 55 – Remediation of Land. Results of the preliminary review and report are to be placed on public exhibition with the planning proposal.

This initial site evaluation has been prepared in accordance with Council's Town Planning Policy 5.12 Contaminated Land Management Policy, Managing Land Contamination Planning Guidelines (Department of Urban Affairs and Planning/Environment Protection Authority, 1998) and State Environmental Planning Policy 55 Remediation of Land (SEP55).

SUBJECT SITE

Initial investigations through parish maps, development applications and deposited plans indicates that the subject site originally formed part of Portion 9 in the Parish of South Deniliquin. There have been a number of subdivisions in relation to Portion 9 which has resulted in the creation of Lots 3 and 4 DP286006 Barham Road. The subject site is identified as rate assessment 219. Figure 1 shows the subject site and the extent of Portion 9.

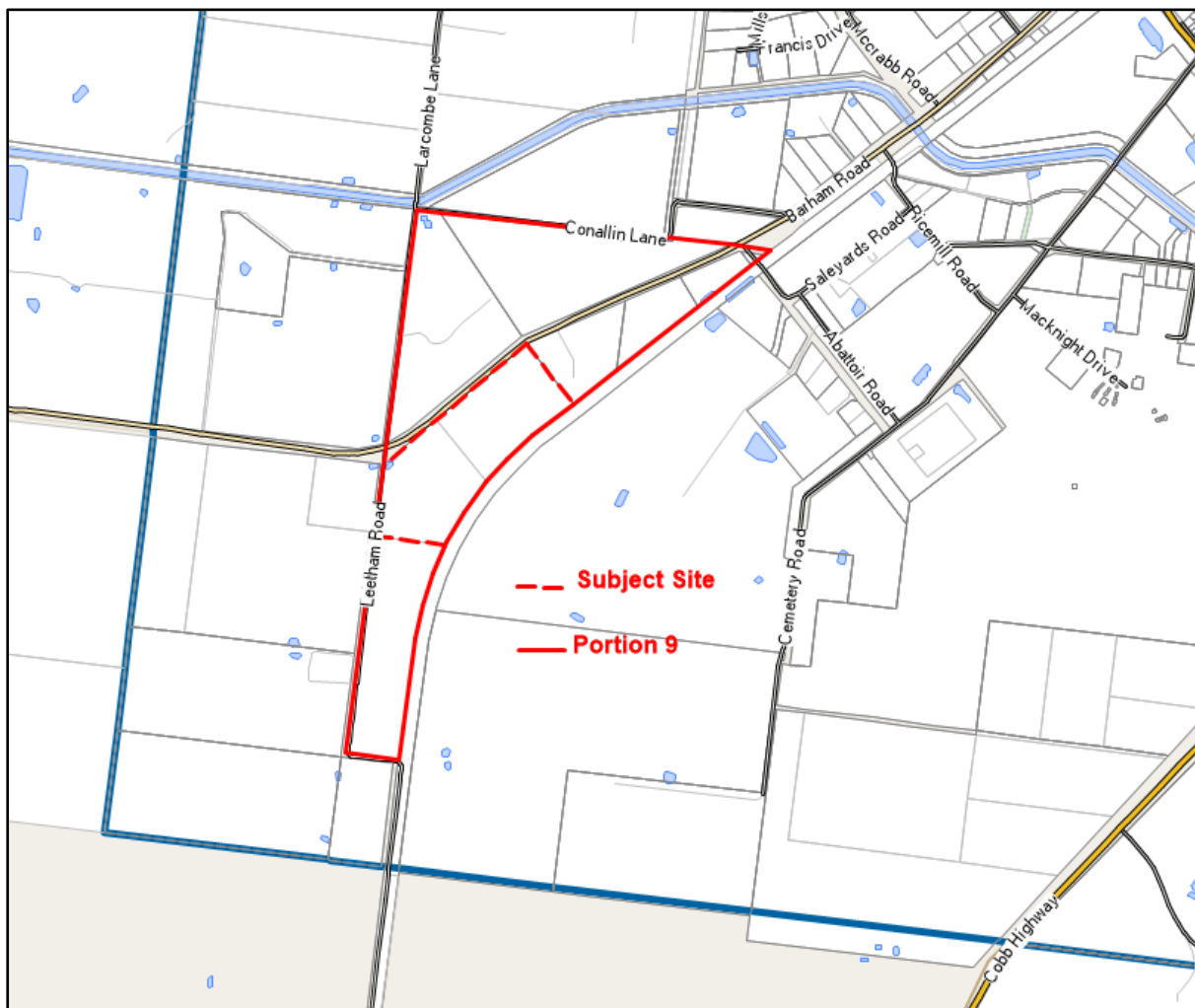


Figure 1 Location of Subject Site and Extent of Portion 9

CURRENT USE OF SITE

The site is currently vacant and appears to be used for grazing.

HISTORICAL ZONING

The subject site has had a rural zoning since the introduction of planning controls in Deniliquin in 1969. It is currently zoned RU1 Primary Production and a range of uses are permissible with and without consent.

The following zones applied under previous historical environmental planning instruments.

Deniliquin LEP 1997

Land was zoned 1(a) General Rural. Figure 2 is an extract from LEP 1997.

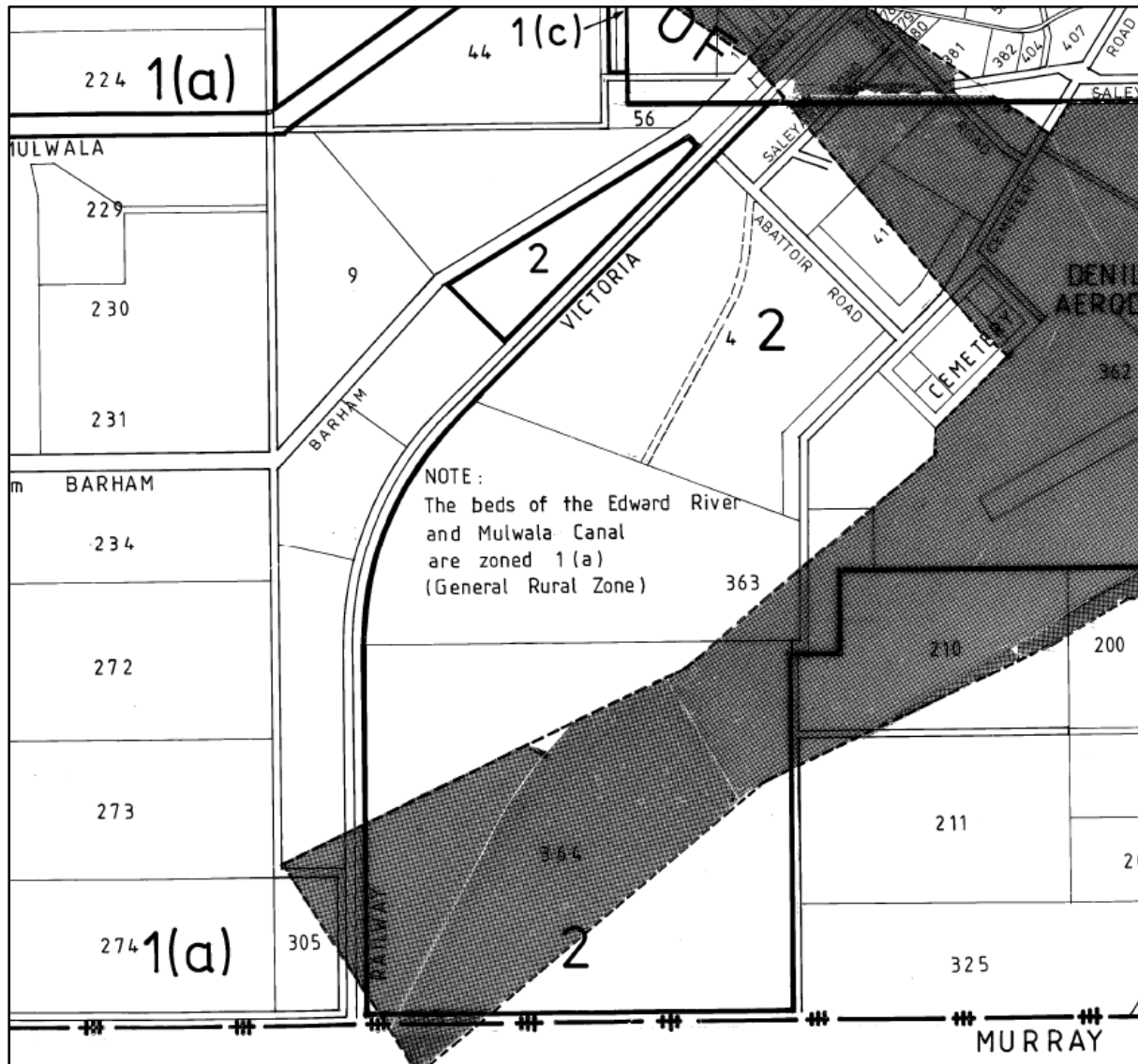


Figure 2 – Extract from LEP 1997 showing the zoning for the subject site.

Deniliquin LEP 1989

Land was zoned 1(a) General Rural. Figure 3 is an extract from LEP 1989.

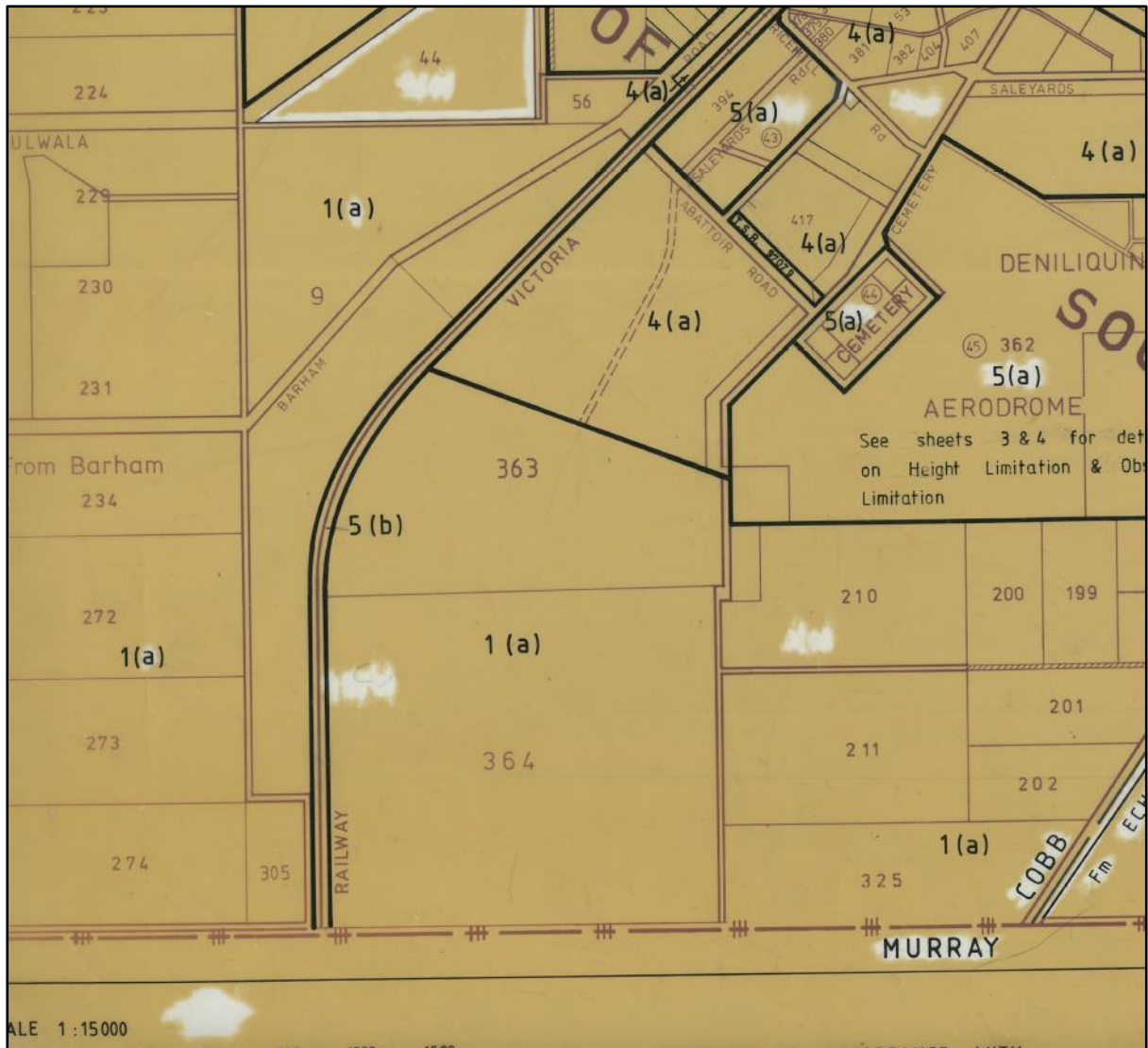


Figure 3 – Extract from LEP 1989 showing the zoning for the subject site.

Deniliquin Planning Scheme Ordinance

Land was zoned 1(a) Non Urban. Figure 4 is an extract from the Deniliquin Planning Scheme Ordinance.

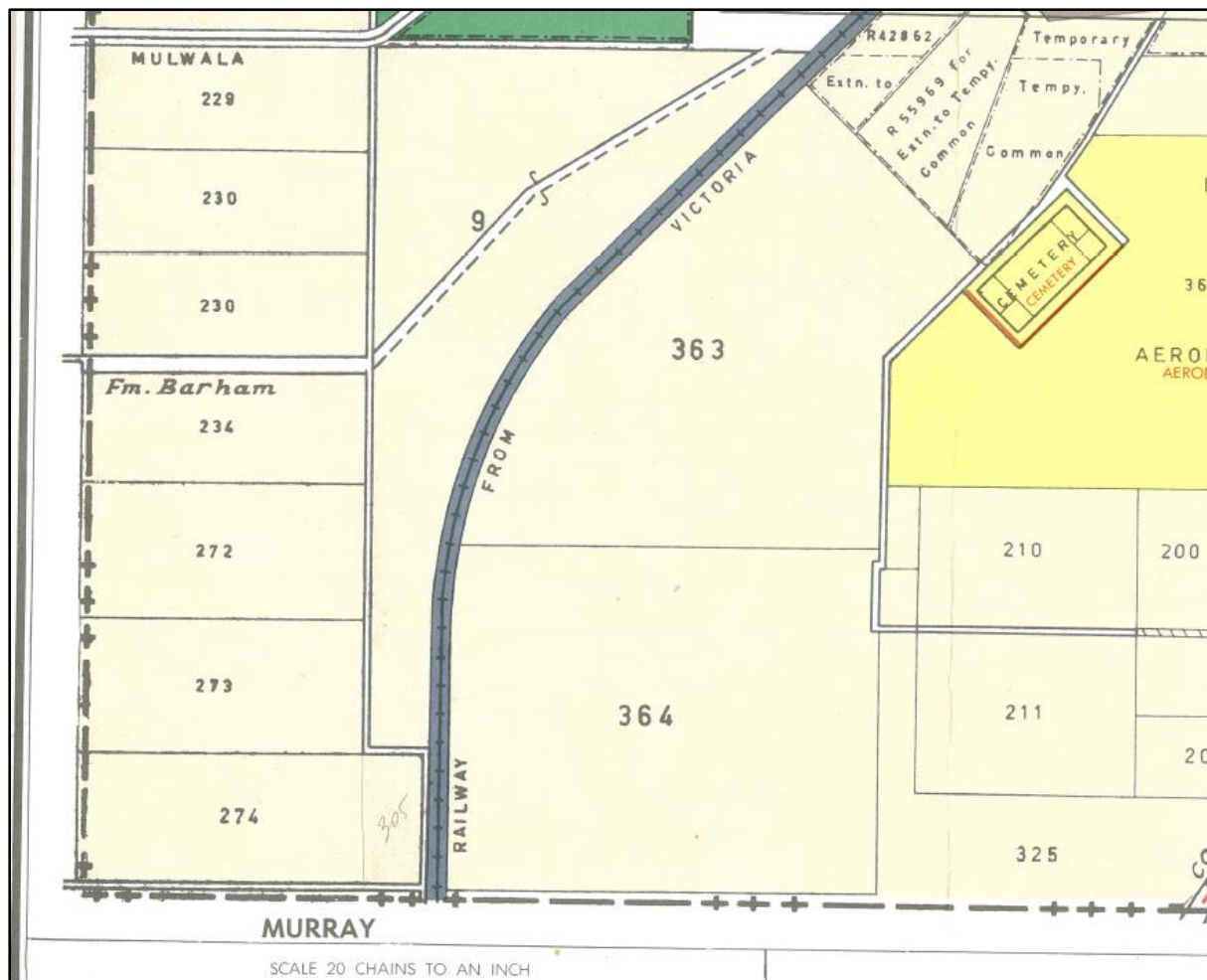


Figure 4 – Extract from Deniliquin Planning Scheme Ordinance showing the zoning for the subject site.

AERIAL PHOTOGRAPHS

Council holds a number of aerial photographs for the former Deniliquin Council areas. The following aerial photographs were reviewed.

2008 Aerial Photography

Land is shown as vacant with no evidence of any structures/cropping etc on the land. Figure 5 is an extract from 2008 aerial photography.

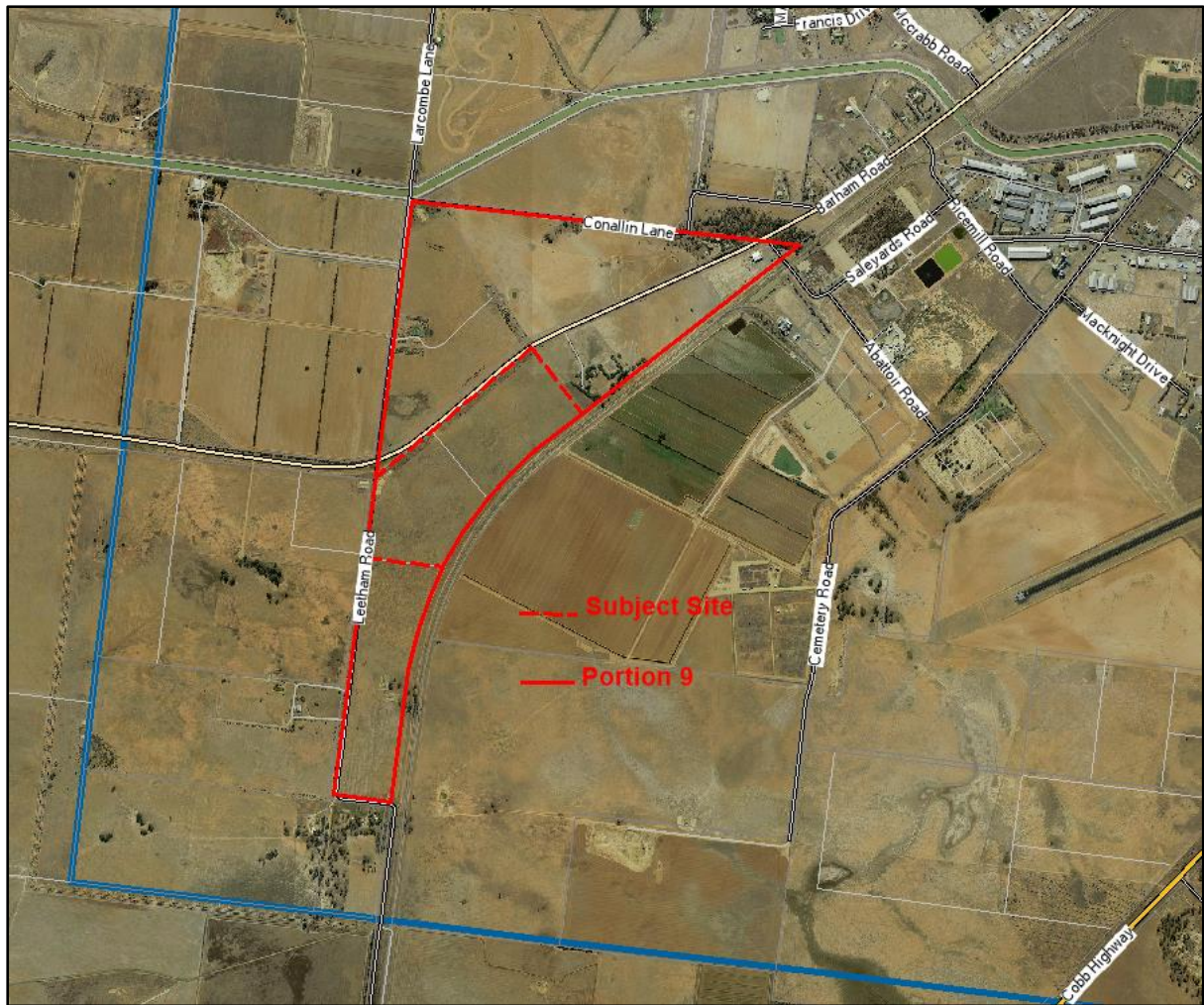


Figure 5 – Extract from 2008 aerial photography

2013 Aerial Photography

Land is shown as vacant with no evidence of any structures/cropping etc on the land. Figure 6 is an extract from 2008 aerial photography.

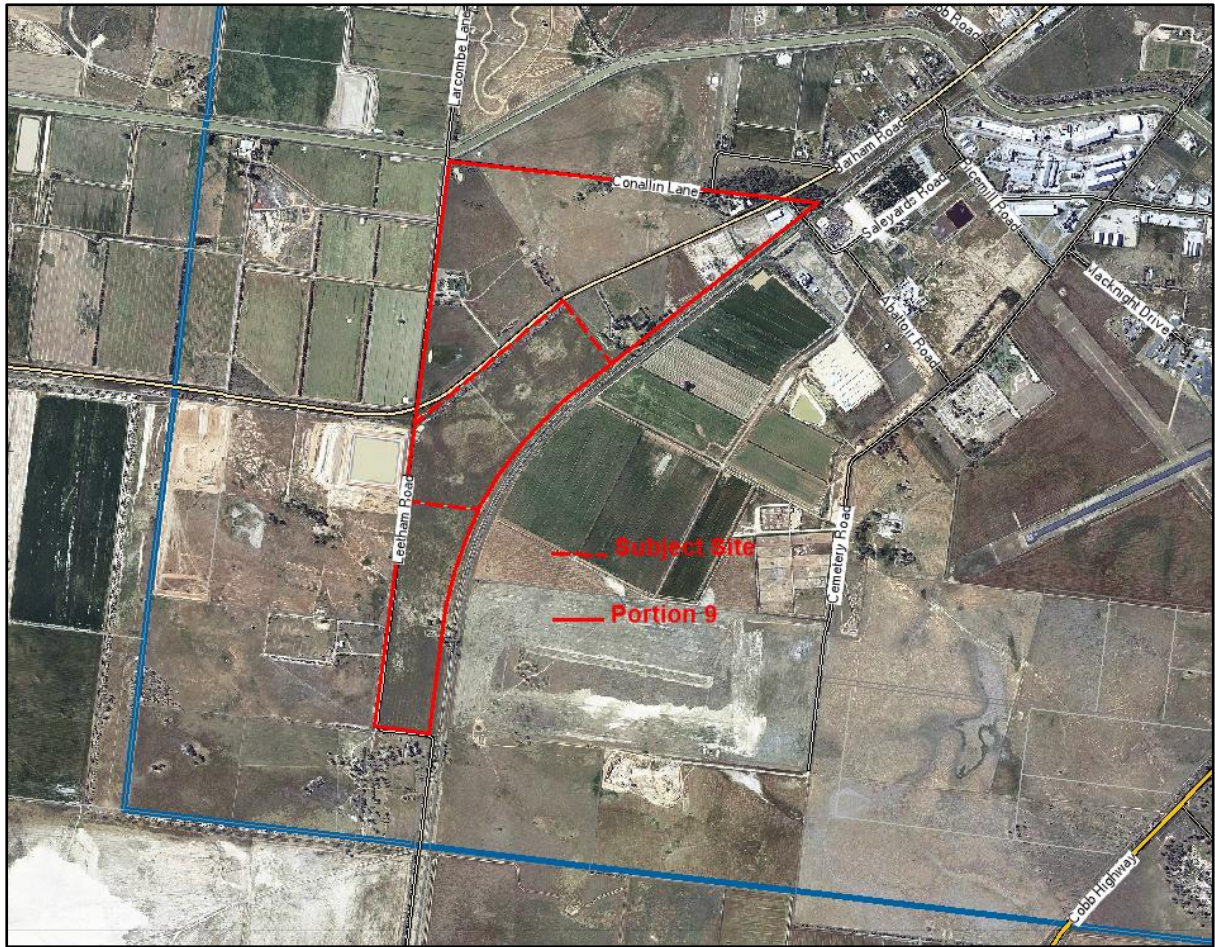


Figure 6 – Extract from 2013 aerial photography

Undated Aerial Photography

Land is shown as vacant with no evidence of any structures/cropping etc on the land. Figure 7 is an extract from the undated aerial photography.

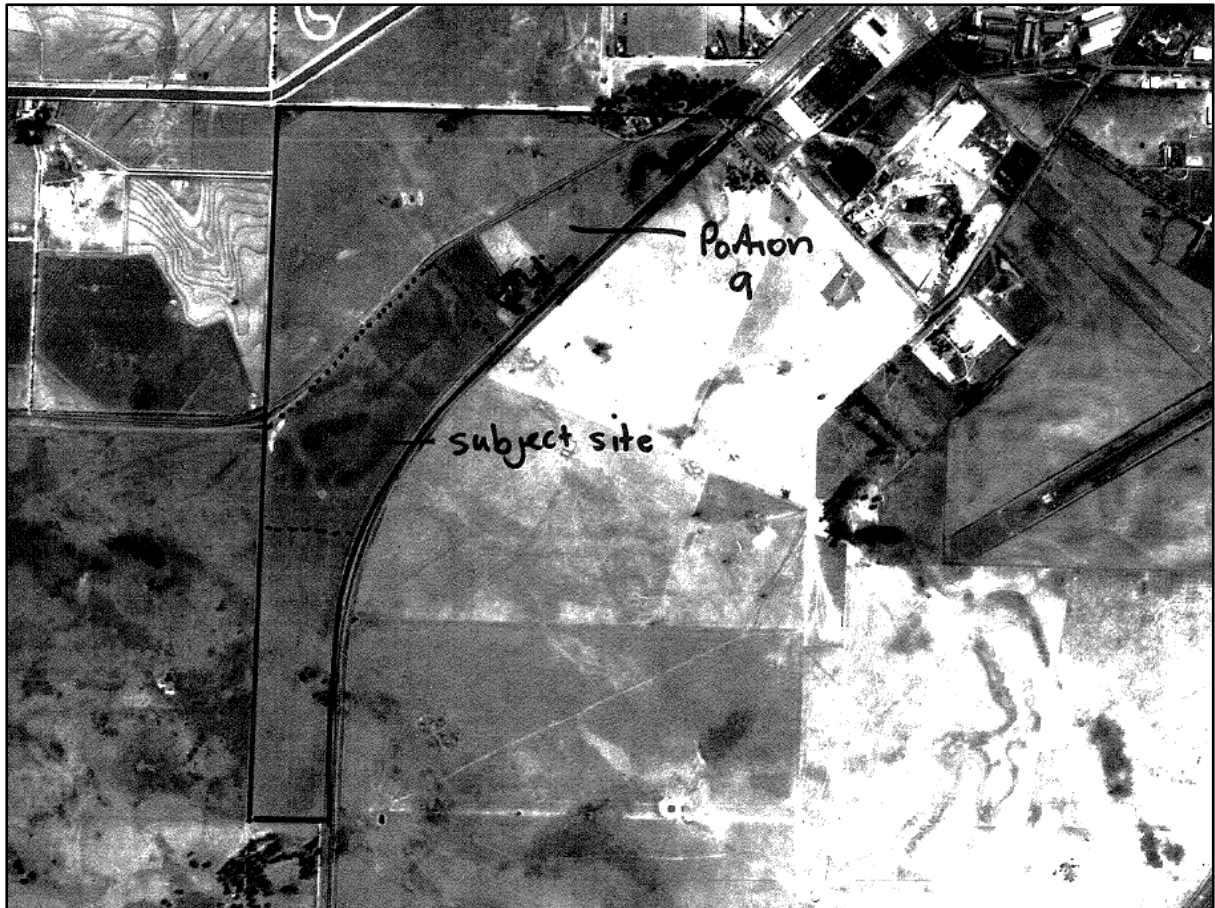


Figure 7 – Extract from undated aerial photograph

Undated Aerial Photography (ref UAg 1063 152.02)

Land is shown as vacant with no evidence of any structures/cropping etc on the land. Figure 8 is an extract from the undated aerial photography (ref UAg 1063 152.02).



Figure 8 - . Extract from the undated aerial photography (ref UAg 1063 152.02)

PARISH MAPS

The parish map covering the subject site dated 16 June 1954 identifies the whole of Portion 9 (which incorporated the subject site) as being owned by the Riverina Frozen Meat Company Limited. Figure 9 is an extract from the parish map identifying the Riverina Frozen Meat Company Limited as the owner of the land.

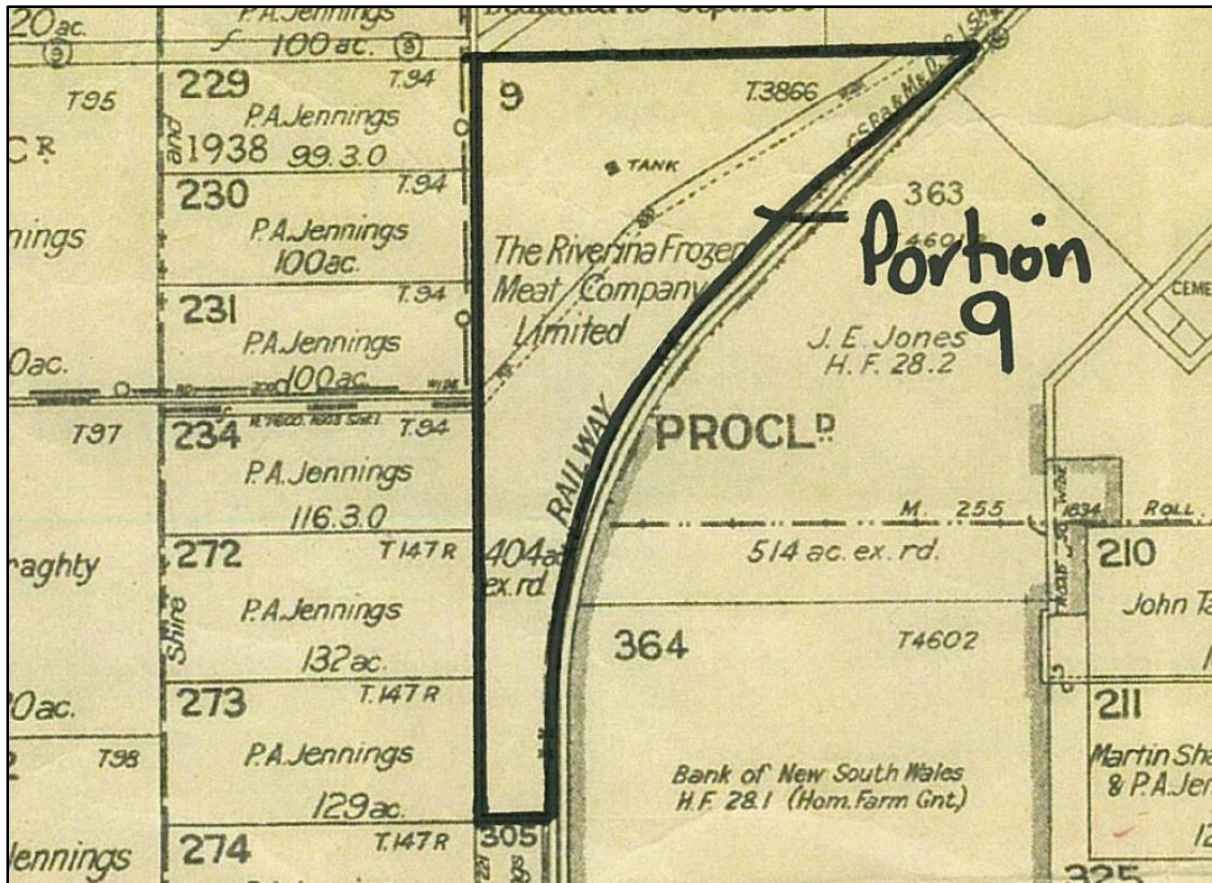


Figure 9 Extract from the parish map

ASSESSMENT FILES

Council holds assessment files for properties based around rates assessment numbers. These files can contain some property information. Given that the subject site originally formed part of Portion 9, assessment files relating to all of the properties forming Portion 9 have been identified and checked. Figure 10 shows the location of each of the assessments in relation to the subject site and Portion 9.

Each of the assessment files identified in Figure 10 was checked and no information was identified in relating to potentially contaminating land uses occurring on any land.

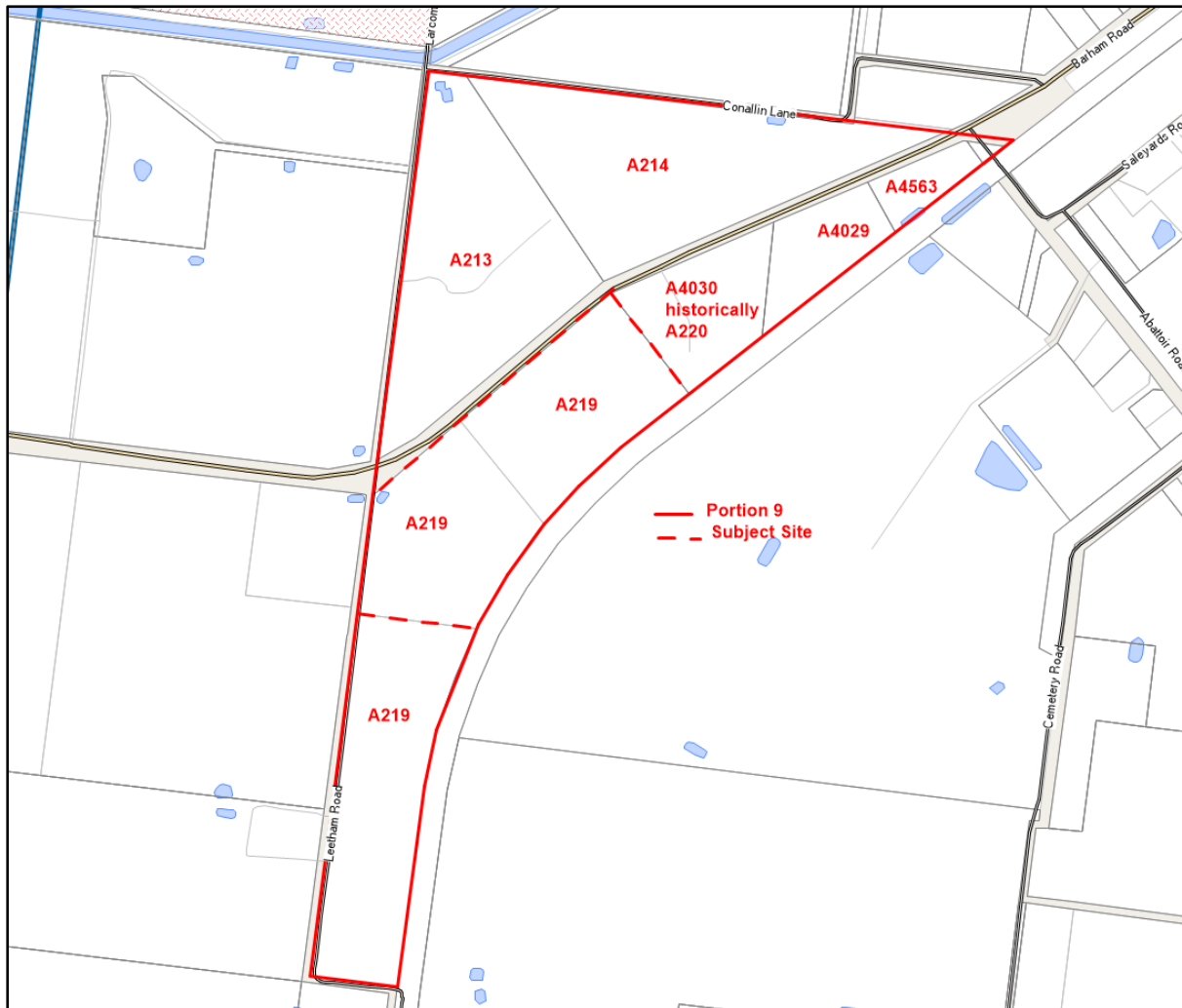


Figure 10 Location of assessments in relation to the subject site and Portion 9

DEVELOPMENT AND BUILDING APPLICATIONS

Council holds historical information relating to development in property cards based around assessment numbers. All of property cards for the assessments relating to Portion 9 have been checked and the following information is provided.

A213

Development on this site has been domestic in nature (dwelling, septic tank, shed/carport) and there is no information on any of the application files relating to potentially contaminating land uses.

A214

Development on this site has been domestic in nature (dwelling additions, home occupation, sheds, septic tank) and there is no information on any of the application files relating to potentially contaminating land uses.

A4030

Development on this site has been domestic in nature (dwelling, dwelling additions) and there is no information on any of the application files relating to potentially contaminating land uses.

A220

Development on this site has been domestic in nature (dwelling, dwelling additions) and there is no information on any of the application files relating to potentially contaminating land uses.

A4563

Development on this site relates to industrial uses (this assessment is zoned IN1 General Industrial LEP 2013). There is no information on the application files relating to potentially contaminating land uses that would relate to assessment 219.

A4029

Development on this site relates to industrial uses (this assessment is zoned IN1 General Industrial LEP 2013). There is no information on the application files relating to potentially contaminating land uses that would relate to assessment 219.

A219

There is no property card for the subject site (A219) indicating that no building or development applications have been submitted for the subject site.

Subdivision Consents

Subdivision 1969/7

2 lot subdivision of Portion 9 Barham Road creating DP537244. No information on this file regarding potentially contaminating land uses.

Subdivision 103

A 2 lot subdivision of Lot 1 DP537244 Barham Road (created DP712729). No information on this file regarding potentially contaminating land uses.

Development Application 1998/06

A 3 lot subdivision of Lot 4 DP712729 Barham Road was issued on 29 May 1998. The application was modified on 2 August 1999 to create a community title scheme to facilitate the delivery of water from Murray Irrigation. No information on this file regarding potentially contaminating land uses.

PREVIOUS LAND OWNER

The Parish Map identified that Portion 9 was once occupied by the Riverina Frozen Meat Company Limited. Council is aware that Mrs Susan Semple has (with her family) had a long association with this land which is confirmed by property card records. She advised that the Riverina Frozen Meat Company Limited was located at Lot 22 DP1006180, 321 Barham Road which is the adjoining land. She has advised that the subject site (Lots 3 and 4 DP286006) was used for grazing, cropping and growing lucerne. Blood and offal from the Riverina Frozen Meat Company Limited was disposed of on the subject site during the late 1800's and early 1900's. Figure 11 shows the location of the remains of the abattoir (footings) as described by Mrs Semple.

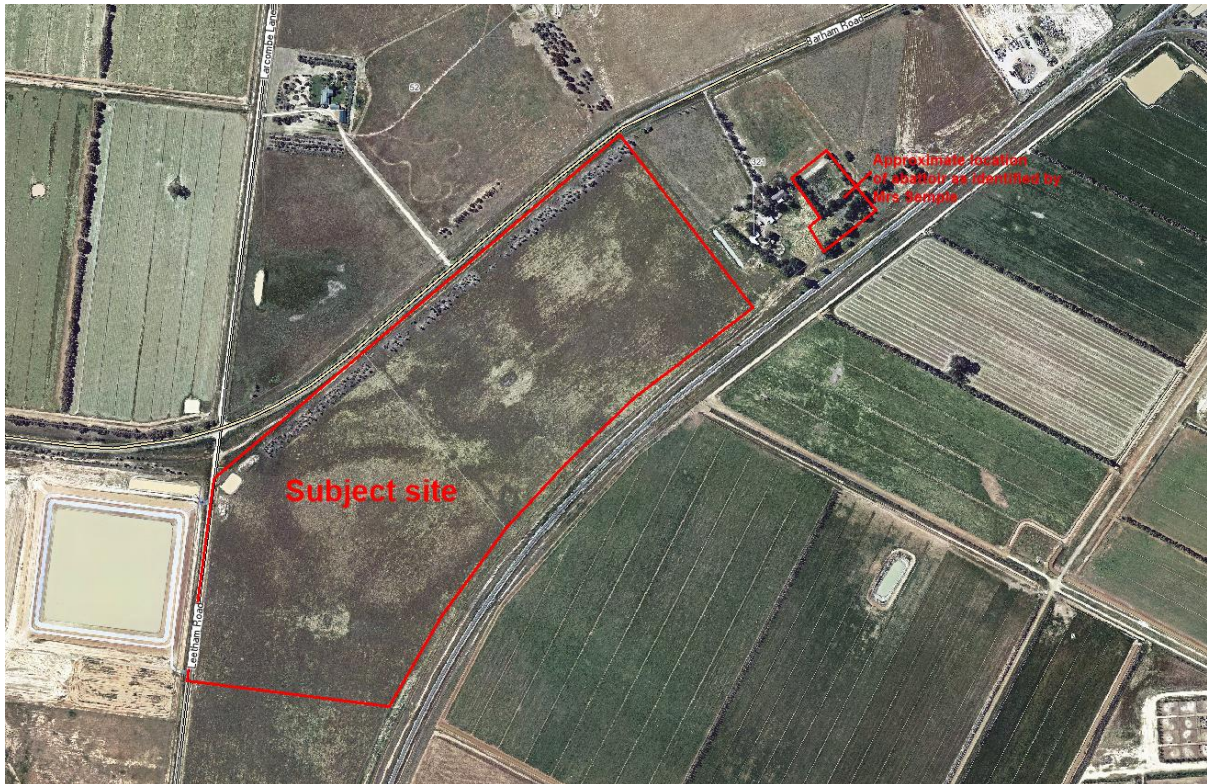


Figure 11 Approximate location of the abattoir in relation to the subject site

Appendix 1 is a statutory declaration provided by Mrs Sample has provided a statutory declaration about the use of the subject site.

LIBRARY RECORDS

The history section of the Central Murray Regional Library holds information about the Riverina Frozen Meat Company. An extract from the book "Saltbush Country" indicates the company commenced operation in approximately 1895 and it was partially damaged by a fire in 1913. There is no reference in the material to when it closed but the dismantling of the abattoir was completed in June 1918. An undated newspaper article held by the Library states that the abattoir was located on the west side of the railway line and included two three-storey buildings. One of the buildings was used as the slaughterhouse and by products factory while the other block contained 6 freezing rooms. The area under cover at the works was 1 ¼ acres and the receiving and drafting yards occupied an equal area.

POLICY FRAMEWORK

Council 's Town Planning Policy 5.12 Contaminated Land Management Policy details the procedure for considering land contamination issues for planning proposals as does the Managing Land Contamination Planning Guidelines (1998). Council has completed an initial evaluation (an assessment of readily available factual information) as required by the gateway determination. Based on this investigation, it is concluded that the land is suitable to be zoned IN1 General Industrial. It should be noted that whilst the land has been used for agriculture, there is no evidence that it has been used for intensive agriculture or horticulture and as such no further investigation is required.

SEPP55 REMEDIATION OF LAND

Clause 6 of SEPP55 requires Council to consider when preparing a planning proposal when the land is contaminated particularly if the land is within an investigation area, the land has been used for a purpose specified in Table 1 of the Managing Land Contamination Planning

Guidelines (1998) and/or whether in the future the land could be used for residential, educational, recreation, child care purposes or a hospital.

Abattoirs are not identified in Table 1 as a potentially contaminating land use. The site is not within an investigation area and it is proposed to rezone the land to IN1 General Industrial. There is no proposal to use the land for residential, educational, recreation, child care purposes or a hospital. As stated above an initial evaluation has been completed and concluded that no further investigation was required.

CONCLUSION

An initial evaluation has been completed and based on the requirements of Council's Policy 5.12 Contaminated Land Management Policy, Managing Land Contamination Planning Guidelines (1998) and SEPP 55, the land is suitable to be rezoned IN1 General Industrial.

Appendix 1

Statutory Declaration
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, SUEAN ANN SAMPLE, do solemnly and sincerely declare that
(name of declarant)
Myself and my family have had an association
with Lots 3 and 4 DP 286006 Bahham
Road since the early 1900's. I am aware
that the Rivenna Freezing Works was
located at Lot 22 DP 1006180 321
Bahham Road on land adjoining the
railway line. Lots 3 and 4 DP 286006
Bahham Rd was used for grazing, cropping
and growing lucerne. Blood and offal
from the Rivenna Freezing Works
was disposed of on Lots 3 and 4
DP 286006 during the late 1800's and
1900's.

and I make this solemn declaration conscientiously believing the same to be true, and
by virtue of the provisions of the Oaths Act 1900.

Declared at: Deniliquin on June 29th 2017
(place) (date)
Sue Sample
(signature of declarant)

in the presence of an authorised witness, who states:

I, BELINDA JANE PERRETT, a JUSTICE OF THE PEACE
(name of authorised witness) (qualification of authorised witness)

certify the following matters concerning the making of this statutory declaration by the person
who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR ~~*I did not see the face of the person because the person
was wearing a face covering, but I am satisfied that the person had a special justification
for not removing the covering, and~~
2. *I have known the person for at least 12 months OR ~~*I have confirmed the person's identity using an
identification document and the document I relied on was~~

[describe identification document relied on]

B.J. Perrett
(signature of authorised witness)

JUNE 29 2017
(date)

Belinda Perrett
Justice of the Peace in and for the
State of New South Wales
JP Registration Number 212894

26/07/2017

The General Manager.
Edward River Council
PO Box 270
DENILQUIN NSW 2710



Dear Sir

**RE: DRAFT AMENDMENT TO DENILQUIN LOCAL ENVIRONMENTAL PLAN
2013 (PLANNING PROPOSAL 8 – BARHAM ROAD)**

SUBJECT SITE: LOTS 3 & 4 IN DP286006 BARHAM ROAD, DENILQUIN

CURRENT ZONING: RU1 PRIMARY PRODUCTION

PROPOSED ZONING: IN1 GENERAL INDUSTRIAL

We have sighted a copy of amended Planning Proposal No. 8 in respect of the abovementioned land.

We are the registered owners of the property known as "The Ashes" 52 Larcombe Lane, Denilquin NSW, being Lot 31 in Deposited Plan 802306 where we reside with our children.

Our property is directly opposite the land which is sought to be rezoned.

There is a driveway from our house to the Barham Road immediately opposite the land sought to be rezoned.

It is where our driveway meets the Barham Road that our children are picked up by the school bus on each school day. In the afternoon, the school bus stops opposite our driveway on the Barham Road from where our children alight.

The proposed ethanol plant is likely to greatly increase heavy vehicular traffic using the Barham Road in the vicinity of our property leading to a greater risk of a heavy vehicle colliding with a school bus as it picks up or sets down children or, indeed, hitting a child as he or she crosses the Barham Road.

We appreciate that the Planning Proposal only seeks to rezone relevant land and does not constitute an actual Development Application.

Although, the current owner does not specifically state his intended use for the land if it is rezoned, it would seem reasonably clear from the proposal that the likely future use for the land is for activities involving B Double and road train heavy vehicles. This being the case this will only increase the number of heavy vehicles using the Barham Road in the immediate vicinity of our property, particularly, when the construction of the ethanol plant begins.

Although, we do not, prima facie, object to the rezoning of the land and accept that questions of school bus and child pedestrian safety may be more relevant when actual Development Applications are made for the land, if it is rezoned, we believe that it is important that our concerns be raised at this stage as we understand that not all permitted uses for land which is rezoned IN1 General Industrial may require Development Approval.

We believe that Council must, at this stage, address itself to the question of the likely increase in heavy vehicular traffic along the Barham Road in the immediate vicinity of our property; whether the current state of the Barham Road can adequately cope with the likely increase in heavy vehicular traffic if this land is rezoned; and above all the question of school bus and pedestrian school children safety.

Council should request the owner of the land to address these matters at this rezoning stage and not just when any Development Applications are made for use of the land after any rezoning.

We have made no political donations in the previous two years.

Yours faithfully

.....

.....

3 August 2017

SWT17/00087
SF2017/146003
MM

The General Manager
Edward River Council
PO Box 270
DENILIQUIN NSW 2710

Attention: Julie Rogers

DRAFT AMENDMENT TO DENILIQUIN LOCAL ENVIRONMENTAL PLAN 2013 (PLANNING PROPOSAL 8 – BARHAM ROAD) LOT 3 & 4 DP286006.

I refer to your correspondence regarding the subject Application which was referred to the Roads and Maritime Services for assessment and comment.

From the information provided it is understood that the planning proposal is for the rezoning of the subject land from RU1 primary production to IN1 general industrial. The subject site has frontage to Barham Road also referred to as Deniliquin – Barham Road (RR7605) which is an unclassified Regional Road. The site is located approximately 3 kilometres along Barham Road from the intersection of Barham Road with the Cobb Highway.

The subject site is located adjoining land that is also zoned for industrial related purposes. The proposed rezoning appears to be justified due to the lack of availability of large industrial allotments which are serviceable and have frontage to B-double and route train routes however it is noted that a minimum lot size is not applicable under the LEP 2013 to the IN1 general industrial zone. The site has a total area of 39.24 Ha.

Roads and Maritime Services has considered the planning proposal on the basis of the supporting documentation and in relation to the location of the subject site relative to the classified road network and advises that no objection is raised to the proposed rezoning of the subject site.

Any enquiries regarding this correspondence may be referred to the Manager, Land Use for Roads and Maritime Services (South West Region), Maurice Morgan, phone (02) 6923 6611.

Yours faithfully



Per:
Jonathan Tasker
Acting Director
South West NSW